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Subject: OCSPP News for April 30, 2021

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EPA Must Ban or Reduce Chlorpyrifos Residue in Food, Court Says

Sylvia Carignan, Bloomberg Law

https://news.bloomberglaw.com/environment-and-energy/epa-must-ban-or-reduce-chlorpyrifos-residue-in-food-court-says

The EPA must ban chlorpyrifos residue in food, or determine how much to reduce the allowable amount, a federal appeals court decided Thursday in the face of building evidence that the pesticide causes injuries.

Pesticide Action Network North America and the Natural Resources Defense Council Inc. asked the Environmental Protection Agency to prohibit foods with chlorpyrifos residue in 2007 because of the chemical's health effects. After more than a decade of agency inaction, the U.S. Court of Appeals for the Ninth Circuit gave the agency 60 days to decide what, if any, amount is safe.

The court also ordered the EPA to either modify or cancel its chlorpyrifos registrations for food use under the Federal Insecticide, Fungicide, and Rodenticide Act.

The Ninth Circuit had ordered the EPA to move forward multiple times when it failed to take action on the groups' petition. The agency denied the petition in 2017 and later denied all objections to its decision.

"Rather than ban the pesticide or reduce the tolerances to levels that the EPA could find were reasonably certain to cause no harm, the EPA sought to evade through delay tactics its plain statutory duty," Judge Jed S. Rakoff, sitting by designation from the Southern District of New York, wrote.

The 2007 petition had more than enough evidence to start a safety review, which the agency recognized, the court said.

The EPA recognizes that fetuses are harmed when pregnant women are exposed to chlorpyrifos residue, the court said.

The Federal Food, Drug and Cosmetic Act allows the EPA to establish a tolerance for pesticide chemical residue if the agency determines it's safe.

Judge Jacqueline H. Nguyen joined the opinion.

Judge Jay S. Bybee dissented, arguing the majority misread the statute in demanding unanimity from the EPA and intervened in ongoing debates at the agency over what the evidence proves and how it should be weighed.

"It is certainly true that the agency had some stops and starts along the way, but that is evidence of deliberate decisionmaking, not dereliction of duty," he said.

The majority's remedy is also an abuse of the court's discretion because the agency won't be able to make an informed decision in a short period of time, likely forcing the EPA to revoke the tolerances, Bybee said.

"By its decision to give EPA 60 days to issue a final decision in this case, the majority has likely predetermined EPA's option," Bybee said.

Earthjustice represented the petitioners.

The case is League of United Latin Am. Citizens v. Regan, 9th Cir., No. 19-71979, 4/29/21.

Attorney General Rob Bonta Says Court Decision Requiring EPA to Make Safety Finding on Dangerous Pesticide is Critical Victory for California Families

N/A, Sierra Sun Times

https://goldrushcam.com/sierrasuntimes/index.php/news/local-news/29413-attorney-general-rob-bonta-says-court-decision-requiring-epa-to-make-safety-finding-on-dangerous-pesticide-is-critical-victory-for-california-families

SACRAMENTO – California Attorney General Rob Bonta on Thursday applauded a decision by the Ninth Circuit Court of Appeals requiring the U.S. Environmental Protection Agency (EPA) to make a required safety finding for chlorpyrifos rob bonta california attorney general 2021residues detected on food. Chlorpyrifos is a widely used agricultural pesticide approved for use on more than 80 food crops. For years, the EPA has possessed compelling evidence that exposure to chlorpyrifos harms brain development in infants and young children but, under the Trump Administration, abruptly ended the rulemaking process to revoke its approval for use on foods. Today's decision orders the EPA to either modify the existing chlorpyrifos tolerances for residue on foods and publish findings that such modified tolerances are safe for humans, including for infants and children, within 60 days or revoke all tolerances for the pesticide. The Court also ordered EPA to modify or cancel related food uses of chlorpyrifos under the Federal Insecticide, Fungicide, and Rodenticide Act.

"Because of the Trump Administration's refusal to make a required safety finding on chlorpyrifos, parents in California and across the country were left to question whether everyday fruits and vegetables were poisoning their children," said Attorney General Bonta. "I hope today's critical victory allows them to rest a little easier."

The EPA regulates the use of pesticides on food crops and the resulting human exposure to the pesticides. To allow a pesticide to be used on food crops, the EPA must comply with the Federal Food Drug and Cosmetic Act, which requires that the EPA establish or maintain tolerances for pesticides only if the EPA Administrator has determined that the tolerance is safe.

In November 2015, the EPA proposed a rule to revoke all residue levels of chlorpyrifos on food crops because of safety concerns. Specifically, the EPA noted that chlorpyrifos adversely affected the neurodevelopmental development of children. However, in March 2017, EPA Administrator Scott Pruitt abruptly reversed course, ended the rulemaking process, and issued an order that left in effect the existing tolerances of chlorpyrifos without making the required safety finding. The California Department of Justice, joining a multistate coalition, filed a lawsuit on August 17, 2019, after the EPA rejected the States' administrative petition objecting to the

EPA's decision not to revoke food tolerances for chlorpyrifos.

California's Department of Pesticide Regulation has cancelled virtually all agricultural use of chlorpyrifos in the state effective December 31, 2020 because of mounting evidence that chlorpyrifos is associated with serious health effects in children and other sensitive populations.

A copy of today's decision can be found here.
Source: CA. DOJ

EPA IS GIVEN 60 DAYS TO BAN OR MODIFY RULES FOR CHLORPYRIFOS

Chuck Abbott, Successful Farming

https://www.agriculture.com/news/crops/epa-is-given-60-days-to-ban-or-modify-rules-for-chlorpyrifos

After blasting the EPA for "13 years of interminable delay," the federal appeals court in San Francisco on Thursday set a 60-day deadline for the agency to either ban agricultural use of the pesticide chlorpyrifos or set newer and safer exposure levels for the chemical. The dissenter in the 2-1 decision said the short time frame "virtually guarantees" a ban.

"By remanding back to the EPA one last time, rather than compelling the immediate revocation of all chlorpyrifos tolerances, the court is itself being more than tolerant," said the decision. "But the EPA's time is now up."

Regulators cut off residential use of the organophosphate pesticide two decades ago. First marketed in 1965, chlorpyrifos is commonly used in agriculture, most prominently on corn but also on soybeans, cotton, vegetables, and fruit and nut trees. It has been linked to learning disorders and can cause nausea, dizziness, and confusion.

Environmentalists petitioned in 2007 for an agricultural ban. Chlorpyrifos has been the subject of regulatory and judicial tussles ever since. The EPA was moving toward the elimination of its agricultural use a few years ago, but the Trump administration reversed course. "We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos while still protecting human health and the environment," said Scott Pruitt, EPA chief at the time.

The appellate ruling on Thursday was the result of a 2019 lawsuit by environmental, labor, and health groups after the EPA put off a decision on chlorpyrifos. In the interim, regulators in California, Hawaii, and New York phased out use of the pesticide. Corteva, the largest manufacturer of chlorpyrifos, said it would halt production by the end of 2020, citing a steep decline in demand since the late 1990s. There were at least three other makers.

"EPA is reviewing the decision as it considers its options," said a spokesman. "EPA will continue to use sound science in the decision-making process" as dictated by law.

"It would be unconscionable for EPA to expose children to this pesticide for any longer," said Patti Goldman of Earthjustice, an environmental law firm. "EPA must now follow the law, ban chlorpyrifos, and protect children and farmworkers from a pesticide we know is linked to numerous developmental harms."

Judges Jed Rakoff and Jacqueline Nguyen pointed to repeated studies indicating that low levels of exposure to chlorpyrifos could be harmful to neurological development. "Therefore, by statutory definition, the present tolerances are not safe. Accordingly, the EPA's obligation is clear: It must modify or revoke chlorpyrifos tolerances and modify or cancel chlorpyrifos registrations," they said in the majority opinion. Considering the scientific evidence in the case, "it may well be that EPA cannot make such a determination" of a safe tolerance level.

"The EPA has had nearly 14 years to publish a legally sufficient response to the 2007 Petition. During that time, the EPA's egregious delay exposed a generation of American children to unsafe levels of chlorpyrifos," wrote Rakoff and Nguyen in setting the deadline.

To read the appellate decision, click here.

Huge Victory for Kids: Court Orders EPA to Ban Use of Toxic Pesticide on Foods

Julia Conley, The Defender

https://childrenshealthdefense.org/defender/court-orders-epa-ban-toxic-pesticide-on-foods/

The environmental law organization Earthjustice celebrated a "huge victory" for farmworkers and children on Thursday after the 9th Circuit Court of Appeals ordered the Environmental Protection Agency to ban all food uses of a toxic pesticide linked to memory loss and developmental harms.

The EPA was given 60 days to revoke all food uses of chlorpyrifos and retain only those that are found to have no effects on people's health.

"This ruling is a huge victory for children and communities across the country who will finally be spared by needless poisonings and lifelong learning disabilities," said Earthjustice in a statement.

Representing labor groups including United Farm Workers and public health organizations including the Learning Disability Association of America, Earthjustice filed a lawsuit against the EPA after the agency refused to ban chlorpyrifos in 2019 and in 2016 under the Trump administration.

The Obama administration had been working to ban the pesticide before former president Donald Trump took office in 2016, and environmental groups have been calling for an end to all food uses for the chemical for decades.

"We have been working for years to make this happen," Earthjustice tweeted Thursday.

Numerous scientific studies have found that exposure to organophosphate pesticides, the class of chemicals that includes chlorpyrifos, is linked to attention deficit disorders, autism spectrum disorders, hand tremors, and other symptoms in children.

Organophosphates — which also include sarin nerve gas — were originally developed by the Nazis for chemical warfare but were later adopted for agricultural uses.

Chlorpyrifos was banned for household use in 2001, but is still used widely to grow strawberries, apples, citrus, broccoli, corn, and other fruits and vegetables — putting farmworkers and rural communities most at risk for exposure but also affecting children's long-term health through exposures in food and drinking water.

COURT RULES THAT EPA'S DELAY "EXPOSED A GENERATION OF AMERICAN CHILDREN" TO BRAIN-DAMAGING PESTICIDE CHLORPYRIFOS

Sharon Lerner, The Intercept

https://theintercept.com/2021/04/29/chlorpyrifos-epa-brain-damage-children/

AFTER 14 YEARS of legal battles, a federal court ordered the Environmental Protection Agency to take actions that will likely force the neurotoxic pesticide chlorpyrifos off the market. The federal agency has for years been considering mounting evidence that links the pesticide to brain damage in children — including loss of IQ, learning difficulties, ADHD, and autism — but, as the court acknowledged, has repeatedly delayed taking action.

"Rather than ban the pesticide or reduce the tolerances to levels that the EPA could find were reasonably certain to cause no harm, the EPA sought to evade through delay tactics its plain statutory duty," Judge Jed S. Rakoff wrote in his decision, which was released today by the 9th Circuit Court of Appeals. "During that time, the EPA's egregious delay exposed a generation of American children to unsafe levels of chlorpyrifos," he wrote, and ordered the EPA to issue a final regulation within 60 days.

While Rakoff stopped short of requiring the EPA to immediately ban the pesticide, he gave the agency little choice in how to respond. "The EPA's obligation is clear: it must modify or revoke chlorpyrifos tolerances and modify or cancel chlorpyrifos registrations," Rakoff wrote in his ruling in the case, which was filed by Earthjustice on behalf of the League of United Latin American Citizens, the Pesticide Action Network, United Farm Workers, and other groups.

The decision marks the culmination of a prolonged and bitter legal battle over one of the most widely used and dangerous pesticides in U.S. agriculture. More than 5 million pounds of chlorpyrifos were applied to crops in 2017, according to the most recent data. Exposure to the pesticide through residue on food and drift near fields where it was applied has wreaked devastation on developing children. According to a team of researchers led by Leonardo Trasande, organophosphate pesticides, of which chlorpyrifos is the most widely used, accounted for an estimated $594 billion in societal costs, including added health care and education, between 2001 and 2016.

The EPA was poised to ban chlorpyrifos in 2016, but the Trump EPA changed course the next year without providing any scientific justification for its decision. The reversal, made under EPA Administrator Scott Pruitt, has been tied to a $1 million contribution to President Donald Trump's inaugural fund from Dow Chemical Company, now known as Corteva, which was the primary producer of chlorpyrifos.

But the EPA had come close to, and retreated from, banning chlorpyrifos well before the Trump administration. After concerns began to mount in the late 1980s about the harms chlorpyrifos posed to children, environmental groups pushed to get chlorpyrifos banned. Dow and agricultural groups fought back aggressively against the

EPA's regulatory scrutiny, arguing that its removal would lead to shortages of fruits and vegetables. Ultimately, instead of forcing the pesticide off the market, the agency struck a deal in 2000 in which Dow voluntarily withdrew a product containing chlorpyrifos that was used to kill cockroaches and other insects in the home, while the company's agricultural product, Lorsban, remained on the market.

"The reason it's taken the agency this long is that Dow refused to give an inch and decided to fight to the last man or woman standing."
Dow continued to fight hard to be able to sell chlorpyrifos well after there was overwhelming evidence that it was causing brain damage in children who were exposed in their early years or born to women who came into contact with the chemical while pregnant. "The reason it's taken the agency this long is that Dow refused to give an inch and decided to fight to the last man or woman standing," said Charles Benbrook, an agricultural economist and executive director of the Heartland Health Research Alliance. "Inside these chemical companies, it's almost a...

Appeals court tells EPA to ban pesticide or decide it's safe

Associated Press Staff, Wisconsin State Farmer (AP)

https://www.wisfarmer.com/story/news/2021/04/30/appeals-court-epa-ban-pesticide-decide-its-safe/7410347002/

WASHINGTON (AP) – A federal appeals court on April 29 ordered the Environmental Protection Agency to quickly determine whether a pesticide linked to brain damage in children should be banned, saying the agency had delayed acting on the widely used bug-killer chlorpyrifos for nearly 14 years.

In a 2-1 decision, the San Francisco-based 9th U.S. Circuit Court of Appeals ordered the EPA to act on a possible ban within 60 days.

"The EPA has spent more than a decade assembling a record of chlorpyrifos's ill effects," U.S. District Judge Jed S. Rakoff wrote. "Yet, rather than ban the pesticide or reduce the tolerances to levels that the EPA can find are reasonably certain to cause no harm, the EPA has sought to evade, through one delaying tactic after another, its plain statutory duties."

Rakoff and U.S. Circuit Judge Jacqueline H. Nguyen ordered the EPA to decide within 60 days whether the pesticide is safe, including for infants and children, or ban it.

U.S. Circuit Judge Jay S. Bybee, in dissent, said 60 days was too short, "likely predetermining EPA's option" and forcing a ban.

"This is a vast overreach, a clear abuse of our discretion," Bybee wrote.

The decision comes after a yearslong battle over the pesticide, which is widely used on oranges, soybeans, almonds and other crops.

During the Obama administration, the EPA had initiated a ban, but the agency reversed that decision shortly after President Donald Trump took office in 2017. The EPA rejected a legal challenge in 2019, saying

environmental groups had failed to prove a ban was warranted.

A spokesman said Thursday that the EPA is reviewing the court decision. President Joe Biden signed an executive order this year to review the Trump EPA's decision to keep chlorpyrifos on the market.

"As the agency pursues its mission to protect human health, including that of children and the environment, EPA is committed to ensuring the safety of pesticides and other chemicals," spokesman Nick Conger said. "The agency is committed to helping support and protect farmworkers and their families while ensuring pesticides are used safely."

Environmental groups said a ban of chlorpyrifos is long overdue.

"The court got it right: EPA's time is now up," said Patti Goldman, managing attorney at Earthjustice, one of the groups that challenged the Trump-era decision.

"EPA must now follow the law, ban chlorpyrifos and protect children and farmworkers from a pesticide we know is linked to numerous developmental harms," Goldman said in a statement. "It would be unconscionable for EPA to expose children to this pesticide for any longer."

Jennifer Sass, a senior scientist at the Natural Resources Defense Council, another group involved in the litigation, said the appeals court "ruled in favor of science, which has clearly shown that chlorpyrifos is too dangerous to be used to grow our food."

The ruling — and EPA action expected by the end of June — "will ensure that kids can eat fruits and vegetables free of this neurotoxin," Sass said.

Scientific studies have shown that chlorpyrifos damages the brains of fetuses and children. California, the largest agricultural state, banned sales of the pesticide as of last year. New York and a handful of other states also have moved to ban it.

Corteva Inc., which had been the world's largest manufacturer of the pesticide, stopped producing it last year. The company, created after a merger of Dow Chemical and Dupont, said declining sales drove its decision and that officials continue to believe chlorpyrifos is safe.

A spokeswoman said in an email Thursday the company was disappointed at the appeals court ruling, "which threatens to effectively remove an important tool for farmers."

Teresa Romero, president of the United Farm Workers union, called the court ruling a "huge victory" for farmworkers and their families.

"The men and women who harvest our food have waited too long for a ban on this pesticide," she said. She urged quick...

Scientific groups call for diversity on EPA advisory panels

N/A, Inside EPA

https://insideepa.com/daily-feed/scientific-groups-call-diversity-epa-advisory-panels?utm_source=dlvr.it&utm_medium=twitter

A coalition of 16 scientific, professional, and academic organizations is calling on EPA and other federal science agencies to revamp their science advisory bodies to include more diversity of gender, race, ethnicity and other factors, arguing that doing so will improve the quality of advice the boards give to the federal government.

The Union of Concerned Scientists, American Public Health Association (APHA) and the American Geophysical Union (AGU) were among the signatories to an April 29 letter to EPA and 23 other federal science agencies and departments that says, "As the Biden administration works to advance diversity, equity, and inclusion, it must embrace equal opportunity within the federal scientific workforce and the thousands of science committee advisors that support agencies on a range of scientific and technical matters."

It adds, "Lack of racial, ethnic, and gender diversity in the federal government is a persistent problem which exacerbates longstanding inequities and stifles progress. Research has shown that diverse scientific teams achieve better results than racially and/or socioeconomically homogenous teams, due in part to differing backgrounds and varying perspectives."

The groups say, "The more diverse and representative science advisory committees are, the more individuals from these communities will be represented and the unique challenges they face reflected in science-based recommendations."

Further, "We believe that broader, more diverse representation on science advisory committees will lead to more comprehensive and equitable decision making at the federal level."

EPA is now in the process of recruiting new members to two key advisory panels -- its Clean Air Scientific Advisory Committee (CASAC) and Science Advisory Board (SAB).

Agency Administrator Michael Regan recently dismissed all members of CASAC and SAB, citing the need to reconstitute the panels to restore "integrity" to them following Trump-era changes to the committees, for example a controversial ban on scientists who receive federal research grants being panel members.

The coalition of scientific groups in its letter to the 24 federal agencies and departments adds, "By law, federal advisory committees are required to be fair and balanced, but that definition has traditionally been narrowly focused on balanced expertise and viewpoints rather than membership inclusive and representative of different races, ethnicities, genders, backgrounds, institutions, regions, and experiences."

Biden Administration Seeks To Build Trust And Diversity Among Federal Scientists

Rebecca Hersher, WKMS

https://www.wkms.org/post/biden-administration-seeks-build-trust-and-diversity-among-federal-scientists#stream/0

The Biden administration says addressing climate change and health inequities are among its top priorities, and it will need to lean heavily on federal scientists to achieve ambitious goals. But decades of underfunding, political interference and systemic race and gender bias have undercut trust among many government scientists and have led to a disproportionately white, male workforce.

Recent reports by the Government Accountability Office and House Committee on Science, Space and Technology found that the federal government has not done enough to recruit and retain scientists who are women and people of color. Moreover, opaque hiring practices coupled with successive government shutdowns, hiring freezes and outright political censorship have damaged the federal government's reputation among scientists, according to the GAO.

Many of the Biden administration's policy goals depend on a robust, stable and diverse scientific workforce. Reducing greenhouse gas emissions rapidly and equitably, as the federal government has promised, will require sweeping new policies that apply current understandings of pollution and atmospheric science. But past efforts to reduce pollution have disproportionately benefited people who live in whiter, richer parts of the country.

That history has led environmental and health experts to warn that new efforts to address climate change could deepen economic and health disparities rather than addressing them, especially if the people making policy decisions do not reflect the country's demographics.

"We must focus on revitalizing the federal scientific workforce and preparing it for future challenges," said Max Stier, the president of the Partnership for Public Service, a nonprofit that encourages young people to serve in government positions, at a hearing last month before the House science committee. "Altering the status quo will not be easy but it will be critical to the nation's future."

A trust problem

The federal government employs tens of thousands of scientists, engineers, mathematicians and economists. More than a dozen agencies, including the Environmental Protection Agency, NASA and the Department of Agriculture, rely on the sprawling federal technical workforce to develop policies and regulations about everything from health to food and space to pollution.

Many scientists who work for federal agencies serve under political appointees who are appointed by the White House. It wasn't always this way. For example, when the EPA was established in the 1970s, most of its research divisions were run by career civil servants, many of whom had scientific training.

The Reagan, Clinton and Bush administrations all added political appointees to scientific agencies, which meant more opportunities for political goals to affect how research is conducted and how scientific findings are, or are not, communicated to the public.

Dan Costa worked at the EPA for more than 30 years and retired in 2017 as the head of the agency's Air, Climate and Energy Research Program. He says the agency saw progressively less funding and more skepticism about scientific expertise in the decades he was there, but that the Trump administration went far beyond what had come before.

"It wasn't until the Trump administration came in that you felt this wave of — skepticism understates it," Costa says. "They didn't care about the science, they didn't care about health effects."

There were multiple high-profile instances of science censorship under the Trump administration. The president publicly attempted to personally revise a hurricane prediction, and agencies scuttled or delayed reports on chemical toxicity, air pollution and climate change.

Federal scientists also found their jobs were on the line in some cases. The Trump administration repeatedly asked Congress to cut budgets for health and climate research and relocated parts of the Departments of Interior and Agriculture out of Washington, D.C.

"We lost our...

EPA Expands Scope of Toxics Inventory With Eye Toward Justice

Bobby Magill, Bloomberg Law

https://news.bloomberglaw.com/environment-and-energy/epa-expands-scope-of-toxics-inventory-with-eye-toward-justice

The EPA said Thursday that it'll expand the scope of its toxics release inventory to include more chemicals and facilities releasing toxic chemicals while providing easier public access to the data.

The agency also announced plans to finalize a rule proposed in the last days of the Obama administration that would add natural gas processing facilities to its toxics release inventory. The TRI program requires industrial and federal facilities to report amounts of designated chemicals released into air or water, dispose of, or manage through recycling, energy recovery or treatment.

The goal is to expand the inventory to advance environmental justice, Environmental Protection Agency officials said.

Additional data on chemical releases will allow the EPA to be better prepared to "protect the health of every individual, including people of color and low-income communities that are often located near these facilities but have been left out of the conversation for too long," Administrator Michael Regan said in a statement.

Some contract device sterilization facilities will have to report their use of ethylene oxide, but there's no final timeline for implementing the requirement, according to an agency statement.

Many contract ethylene oxide-releasing facilities, which the EPA said are often near underserved communities, currently don't have to report their releases. Ethylene oxide is used to make other chemicals and sterilize medical devices.

The EPA also said it'll add more per- and polyfluoroalkyl substances, or PFAS, to the inventory, in addition to the three PFAS added for reporting year 2021. The agency didn't say how many additional PFAS it would add.

Chemicals included in the Toxic Substances Control Act workplan and other substances considered high-priority under TSCA will also be included in the toxics release inventory.

EPA said many of the chemicals may be present in "fence line" communities near industrial sites.

Agency spokesman Nick Conger didn't immediately respond to a request for comment Thursday.

EPA lists 390 substances set to lose confidential status

Terry Hyland, Chemical Watch

https://chemicalwatch.com/257700/epa-lists-390-substances-set-to-lose-confidential-status

The US EPA has released a list of 390 substances it expects will lose their confidential status and move to the public portion of the TSCA inventory, allowing anyone to know that the substances are active in US commerce.

The EPA released the accession numbers of the substances on 29 April. The agency said it plans to list the chemicals' specific identities when it issues the next update of the public TSCA inventory, expected in "late summer".

According to the agency, companies reported the 390 chemicals as non-confidential during one or more of the quadrennial chemical data reporting (CDR) submission periods in 2012, 2016 or 2020.

Confidential substances make up around 8,000 of the nearly 42,000 chemicals listed as active in US commerce on the TSCA inventory. Substances designated as confidential business information (CBI) are not directly identified on the public inventory, but are instead listed by a generic name and accession number.

Alexandra Dunn, former head of the EPA's chemicals office and now a partner with Baker Botts, told Chemical Watch that protecting CBI is "an extremely important duty" for the agency.

At the same time, she said, chemical names "should be available" to the public, unless there is a reason for keeping them confidential. One of the goals of the 2016 amendments to TSCA was greater transparency, she said.

Stakeholders still have 15 days – until 14 May – to contact the agency if they have questions or concerns about the list of the substances to be declassified.

More to come?
The bulk of the 390 substances due to lose their confidential status were included in a 'preliminary' list of more than 2,800 substances the agency released in May 2020.

That list combined substances companies had reported as non-confidential in a CDR submission, as well as chemicals flagged during an inventory reset process, in which companies had to identify chemicals that were manufactured, imported or processed in the US during a ten-year "look-back" period.

Companies wishing to maintain the confidential identity of substances had to indicate so at the time, providing substantiation by November 2020.

Several entities, however, did not understand the regulatory requirements or made errors in their Notice of Activity (NOA) forms that potentially undermined confidentiality claims.

As a result, the EPA in the final month of the Trump administration said it would reopen the reporting process to give companies a chance to correct CBI claims. That process was paused after Biden assumed the presidency and ordered a regulatory freeze and review of actions taken during the previous administration.

The EPA confirmed to Chemical Watch that it is still reviewing the Trump administration plan to reopen the inventory reset reporting.

In the interim, the agency is moving ahead to declassify the 390 substances identified during the CDR process. But that means about 2,400 other substances identified last May could eventually also lose their confidential status.

Richard Denison, senior scientist with NGO the Environmental Defence Fund (EDF), said it is important for the public to know the identity of substances to which they could be exposed. He urged the EPA to expedite releasing the identity of the other substances the agency has already flagged.

The only way to know what an individual might be exposed to is to know which chemicals are actually in use, Dr Denison said. "These are chemicals that we now know are on the TSCA inventory" but are active, which means someone is making the substances now.

The public, researchers, and state and local regulators need to know the identity of substances to understand what chemicals are used in consumer products, what substances individuals could be exposed to and if any fall into a category of high concern, he said.

Researcher Urges Strict Endocrine Disruptor Limits To Remedy Novel Harms

Maria Hegstad, Inside TSCA

https://insideepa.com/tsca-news/researcher-urges-strict-endocrine-disruptor-limits-remedy-novel-harms

Shanna Swan, the researcher whose findings helped identify the health impacts of phthalates, is calling for stricter regulation on a host of endocrine-disrupting chemicals that she says have been linked not only to reproductive harms like low sperm count but also premature death -- although the connection between the two effects is still murky at best.

"We are already at the point where it's getting harder to conceive and where the impact on life expectancy may start to be seen," Swan, an epidemiologist at the Icahn School of Medicine at Mount Sinai in New York City, said during an April 28 webinar hosted by the University of California San Francisco's Program on Reproductive Health and the Environment.

Swan said a number of studies show declining reproductive health in subjects across several Western countries, and in particular that average sperm counts are approaching the threshold of 40 million per milliliter that her research and others has linked to both infertility and early mortality. This makes it potentially useful as "the sixth vital sign" for judging patients' overall health similar to heart rate or blood pressure, even though the biological mechanism connecting those effects remains unknown, she said.

"Perhaps the most surprising consequence is that low sperm count is associated with earlier death. There are number of studies now showing this and I think it's a reflection of the fact that low sperm count is a reflection of other changes in the body, lowering of androgen, which can also affect other developmental systems. It's not, I think, the actual production of sperm itself that's related to mortality," she said.

She continued that those and other studies show the need for more stringent rules governing hormonally active chemicals, including those that can have effects at low doses, and specifically called for moving away from the risk-based framework EPA uses under the Toxic Substances Control Act (TSCA), and toward the hazard-based European regulatory model.

"Low doses could be harmful, in fact, that is absolutely true for anything in the endocrine system, it can have effects at very low doses. We have to remove those [chemicals] that are environmentally persistent and those that are untested which are in the tens of thousands, at least," she said.

She said that while the European Union (EU) has banned some 1,100 chemicals from use in personal care products, only 11 chemicals are banned in consumer products in the United States.

"We can do a lot better. And to make that happen, we're going to change our regulations and we have to regulate at low doses. We have to regulate at a human relevant scenario," she said. "We are exposed to low doses. We are exposed to mixtures and we have to deal with assessing the persistence of these chemicals in our environment and then we have to test the untested chemical."

Swan's presentation focused on material in her new book, "Countdown," where she summarizes her years of research into whether and why men's sperm counts are declining in Western countries, including the United States, Europe, Australia and New Zealand, beginning with her review of the 1992 Danish study that first noted the decline in men's sperm count over the previous 53 years.

She said while she doubted those findings at first, they have borne out after further review, and she now cites them as a basis for stronger chemical rules.

Limiting Exposures

Specifically, Swan said regulators should focus on requiring industry to replace endocrine disruptors in products like plastics with alternatives that are known to be safe -- again touting the EU's Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) program as a model, since it requires manufacturers to provide regulators with data on any new chemical's exposure effects before it can enter commerce.

"We have to replace those with chemicals that are without endocrine disrupting effects, that are free of low dose effects...

Industry Warns EPA Against Ending Use Of 'Low-Volume' PFAS Waivers

Diana DiGangi, Inside TSCA

https://insideepa.com/tsca-news/industry-warns-epa-against-ending-use-low-volume-pfas-waivers

Industry groups are warning EPA not to explicitly ban use of the "low volume exemption" (LVE) when approving new per- and polyfluoroalkyl substances (PFAS) under TSCA but are split on their approach, with one group urging caution in the reviews while another says officials have already adopted an "inappropriate" de facto ban.

Following the agency's April 27 announcement that it "generally expects" to deny new LVE applications for PFAS uses, both the Society of Chemical Manufacturers and Affiliates (SOCMA) and the American Chemistry Council (ACC) charged that the Toxic Substances Control Act (TSCA) does not allow EPA to prejudge the outcome of those requests.

But the two trade associations are at odds over the import of EPA's new policy, as ACC says the announcement "only suggests that more time is needed" to review new PFAS uses rather than that EPA will block the chemicals outright, while SOCMA is attacking the move as a substantive change that will improperly limit approvals of perfluorinated substances.

"It is inappropriate for EPA now to both categorically and preemptively deny an entire class of chemistries from being fairly reviewed through an LVE request," SOCMA Vice President for Government Relations Robert Helminiak said in a statement to Inside TSCA. "EPA's own rules require it to review LVEs on a case-by-case basis."

Helminiak says that even though EPA's announcement stops short of vowing to deny all LVE requests for PFAS, its "caveat that 'the agency generally expects that pending and new LVE submissions for PFAS would be denied' is clearly intended to discourage LVE requests."

And he says that if the new approach stands it could set a precedent for EPA to limit approvals of other chemical types without proper review. "This policy will expand and lead to EPA making sweeping policy decisions about other chemicals that will be deprived of the form of safety review they are due under TSCA and EPA's rules."

Under TSCA, chemical manufacturers or users can avoid the more-burdensome pre-manufacture notice (PMN) review process for new chemical uses if they commit to a limited production volume for the chemical at issue. Chemicals that qualify for the LVE are subject to a 30-day review period instead of 90 days for PMNs, and EPA can only grant the exemption to chemicals that pose no "unreasonable risk of injury to health or the environment."

But as part of a suite of announcements on PFAS policy April 27, the agency said it no longer sees the LVE process as a good fit for PFAS, given their persistence as a contaminant and wide range of suspected health impacts that range from cancer to immune system damage.

"Given the complexity of PFAS chemistry, potential health effects, and their longevity and persistence in the environment, an LVE submission for a PFAS is unlikely to be eligible for this kind of exemption under the regulations. While EPA will consider each LVE application individually, the agency generally expects that pending and new LVE submissions for PFAS would be denied," EPA said in its April 27 statement.

Instead, it says, new PFAS uses will generally be expected to go through the PMN process, which the agency describes as "a more thorough review" with options "to mitigate the potential risk of these chemicals," such as through significant new use rules.

'Class-Based Approaches'

By contrast, ACC is not reading EPA's announcement as guaranteeing harsher treatment of new PFAS. The council says in a comment to Inside TSCA, "It should be emphasized that this announcement only suggests that more time is needed than the current 30-day time frame under the LVE; it does not suggest these new chemistries have been found to be unsafe."

But it warns EPA against taking any action to tighten regulation of all PFAS as a class rather than applying chemical-specific data -- an approach that environmentalists have long urged as the only way to limit harms

from the thousands of known perfluorinated chemicals.

"We...

EPA Plans Expanded TRI Mandates For 'Priority' TSCA Chemicals, EtO

Diana DiGangi, Inside TSCA

https://insideepa.com/daily-news/epa-plans-expanded-tri-mandates-priority-tsca-chemicals-eto

EPA is planning to subject a host of new chemicals and facilities to the Toxics Release Inventory (TRI) reporting requirements, including all chemicals on the TSCA "high-priority" list and Obama-era workplan, as well as requiring some previously exempt facilities that work with ethylene oxide (EtO) to participate in the program.

The agency announced a swath of TRI updates in an April 29 press release, framing them as advancing the Biden administration's environmental justice (EJ) agenda by bolstering information on chemical releases in vulnerable communities.

"Every person in the United States has a right to know about what chemicals are released into their communities," EPA Administrator Michael Regan says in the agency's statement. "By requiring new and more data on chemical releases from facilities, EPA and its partners will be better equipped to protect the health of every individual, including people of color and low-income communities that are often located near these facilities but have been left out of the conversation for too long."

Specifically, the release says EPA "plans to propose" adding all chemicals on the Obama-era Toxic Substances Control Act (TSCA) "workplan" list of high-priority substances to TRI, along with all chemicals the agency designates as high-priority for evaluation under the reformed version of the law enacted in 2016.

It also intends to grant a rulemaking petition that has been pending since 2014 to add 25 other chemicals of concern to the TRI list.

EPA is also vowing to finalize an Obama-era proposal to subject natural gas processors to TRI's reporting requirements; to continue adding per- and polyfluoroalkyl substances (PFAS) to TRI as required by the 2020 defense spending bill; and to expand the requirement for EtO reporting after a series of scandals surrounding emissions of the cancer-causing chemical from facilities that sterilize medical equipment.

Together, it says, those changes make up a "comprehensive plan" that will "advance Environmental Justice, improve transparency, and increase access to environmental information."

The moves include several actions that have been pending since the Obama administration, including approving a 2014 petition from the Massachusetts Toxics Use Reduction Institute (TURI) that asked the agency to add 25 new chemicals to the TRI list, including several that EPA has already labeled chemicals of high concern.

"There are some toxic chemicals that have consensus lists or reports on their health and environmental impacts, are likely used in industry, and yet are not on regulatory lists," the TURI petition said. "For example, a recent

TURI research project on carcinogens in Massachusetts noted that there were 30 known or suspected carcinogens that were not on the TURA list of toxic or hazardous substances (consisting largely of the TRI and [Superfund] chemical lists)."

EPA's announcement groups that decision together with an action to add chemicals the agency itself has labeled as high-priority for evaluation under TSCA to the reporting list. Currently the work plan contains 90 chemicals, including all 30 the agency has named as high priorities for TSCA evaluation.

"Many of these substances could be present in fence line communities, those communities within close proximity to industrial uses of these chemicals where releases to water, air, or land could be of a greater impact," the release says.

EtO Releases

The move to tighten reporting mandates for EtO comes after years of controversy over releases of the chemical. Earlier this month, EPA's Office of Inspector General (OIG) said the agency was not properly informing residents of nearby facilities of the risks posed by EtO exposure in their communities, in part because Trump EPA officials discouraged risk communication -- and further found that the Biden administration had not yet reversed the policy.

Years earlier, the sterilization company Sterigenics -- one of the highest-profile EtO...

Ousted EPA Children's Health Chief Seeks Return, Eyes Focus On Equity

Maria Hegstad, Inside TSCA

https://insideepa.com/tsca-news/ousted-epa-children-s-health-chief-seeks-return-eyes-focus-equity

Ruth Etzel, the former director of EPA's Office of Children's Health Protection (OCHP) ousted by the Trump administration, is pursuing a whistleblower complaint that could return her to the helm of OCHP, just as she is calling for regulators to adopt a new approach to chemical risks to protect vulnerable communities from cumulative exposures.

"In environmental health our predominant model has been to focus on getting a sufficient body of evidence on each individual chemical in order to make a case for removal of that chemical from a product or from a process," Etzel said during an April 29 webinar on protecting children's health hosted by the Collaborative on Health and the Environment and Alaska Community Action on Toxics.

"But waiting for children to become ill and then investigating why they got sick is a terrible way to ensure a safe environment for future generations," she continued. Etzel said during the presentation that she was speaking in her personal capacity rather than as an EPA representative.

While she did not address the possibility of her return to OCHP during the webcast, the whistleblower group Public Employees for Environmental Responsibility (PEER) announced April 27 that it is representing her before the federal Merit Systems Protection Board (MSPB) contending that her reassignment away from the children's office in 2019 "was illegal retaliation for urging adoption of stronger lead protections."

And her presentation offered a possible window into what her priorities at OCHP could be under the Biden administration, which has sought to step up focus on environmental justice across the government and at EPA in particular. She equated systemic pollution of the environment with systemic racism in American life and argued that in order to address those system issues regulators should consider alternatives to assessing and managing chemical risks one at a time.

"In this country we often deal with chemicals and the environmental damage without looking at this systematically. These are not simply technical issues to be resolved by science. They are much more like injustices. After all, take a look at who experiences the worst health outcomes from environmental contamination," Etzel said.

While she did not specify what a more holistic regulatory approach could look like, she emphasized a desire to focus on structural factors that lead to vulnerable communities facing more chemical exposures.

"Drawing on the concept of systemic racism, we can observe that systemic pollution is the norm in our country. It's considered OK that pollution occurs in the pursuit of economic growth and that where it lands is just unfortunate. We focus on quantifying individual chemicals and this can be a distraction which can obscure the processes and structures of power that generate that pollution. The chemical-by-chemical [risk management] approach can take our attention away from who produces the pollution and who bears the burden of that pollution."

And she argued that any such solution would have to address the factors that lead to industrial chemical releases, including "imbalances of political power" that weigh against poor or minority populations.

"We think we can retrofit the existing economic system to deal with chemicals but that very system produces the . . . injustices that we see today. The industry decisions that poison communities are made behind closed doors, undemocratically. And these decisions are not random. They are often based on imbalances of political power. Because it's easier to pollute in communities without a lot of power since they don't put up much resistance," Etzel said.

Whistleblower Action

Etzel, a pediatrician and epidemiologist, was recruited to EPA in 2015 from her post at the World Health Organization, where she led efforts to protect children from environmental hazards after a career in the U.S. Public Health Service.

But in the fall of 2019, now-former Administrator Andrew Wheeler...

Biden nominates 3 people to board investigating Husky

Jimmy Lovrien, Superior Telegram

https://www.superiortelegram.com/business/energy-and-mining/7006678-Biden-nominates-3-people-to-board-investigating-Husky

After a year of having just one board member and a growing backlog of cases, the federal agency investigating the Husky refinery blast in Superior could soon have more members.

President Joe Biden on Wednesday nominated three people to the U.S. Chemical Safety and Hazard Investigation Board. Former President Donald Trump had proposed cutting the agency three times, and only replaced one board member. Those actions led to an exodus of experienced investigators, a board of one and backlog of investigations, including the agency's inquiry into the April 26, 2018 Husky refinery explosion and fire in Superior, a former CSB employee told the News Tribune last week.

The nominations come after letters from U.S. senators, labor and industry groups urged Biden to fill the open seats.

In a statement Thursday, CSB Chairman and CEO Katherine Lemos, the lone board member since May 2020, welcomed the nominations.

"This additional support from such technically strong and professionally proficient candidates will strengthen our advocacy and outreach efforts to make chemical facilities safer for workers, communities and the environment," Lemos said. "Board members play an important role in reviewing and voting on investigative reports and safety studies, as well as advocating for the CSB's recommendations at the federal, state and local levels to ensure the necessary steps are taken to minimize the potential for another tragic accident, and I look forward to working with them to strengthen our agency."

The nominations came on Biden's 99th day in office. During that time, his administration had not indicated to the agency whether it intended to fill the board seats. Even as of April 23, a CSB spokesperson told the News Tribune that the agency had not yet heard from the Biden administration about filling the open seats.

An Inspector General's report in July 2020 warned the agency would not be able to operate properly with just one board member.

"Having only one member impairs the function of the CSB, as all functions rest with that one member … workload limitations arising from one board member attempting to perform the work of five affect the accomplishment of the board's technical responsibilities," the report said.

According to a news release from the White House, the nominated board members are:

Sylvia E. Johnson, who works for the National Education Association in the Government Relations department. She has a doctorate from Old Dominion University in Urban Health Services Research with a concentration in Occupational and Environmental Health.

Steve Owens, who works as an attorney for Squire Patton Boggs (U.S.) LLP in Phoenix, Arizona. He previously served as the U.S. Environmental Protection Agency's assistant administrator for the Office of Chemical Safety and Pollution Prevention.

Jennifer Sass, who works as a senior scientist at the Natural Resources Defense Council, an environmental nonprofit organization. She earned her doctorate from the University of Saskatchewan, College of Medicine, Department of Anatomy and Cell Biology and earned a post-doctoral certificate from the University of Maryland, College of Medicine, Program in Human Health and the Environment.

The Senate must approve the nominees.

The CSB will release its first investigation report since December 2019 next week. The agency currently has 20 open investigations dating back to 2016. Husky is the fourth-oldest open investigation.

The final report on Husky was expected in mid-2019. The CSB spokesperson last week would not provide an updated release date.

Though the CSB is not a regulatory agency — it can't issue fines or penalties — its investigations can dig into an incident's root cause and its recommendations can shape industry standards.

President Biden Announces 16 Key Administration Nominations

N/A, The White House Briefing Room

https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/28/president-biden-announces-16-key-administration-nominations/

WASHINGTON – Today, President Joe Biden announced his intent to nominate the following individuals to serve in key administration positions.

Cathy Harris, Nominee for Chair of the Merit Systems Protection Board
Geraldine Richmond, Under Secretary for Science, Department of Energy
Daryl Baldwin, Nominee for Member of the National Council on the Humanities
Sean Burton, Nominee for Member of the Board of Directors of the Metropolitan Washington Airports Authority
Genine Macks Fidler, Nominee for Member of the National Council on the Humanities
Beverly Gage, Nominee for Member of the National Council on the Humanities
Karen Hedlund, Nominee for Member of the Surface Transportation Board
Sylvia Johnson, Nominee for Member of the Chemical Safety and Hazard Investigation Board
Andrew Light, Nominee for Assistant Secretary of International Affairs, Department of Energy
Jane Nishida, Nominee for Assistant Administrator for International and Tribal Affairs, Environmental Protection Agency
Lynette Overby, Nominee for Member of the National Council on the Humanities
Steve Owens, Nominee for Member of the Chemical Safety and Hazard Investigation Board
Jeffrey Prieto, Nominee for General Counsel, Environmental Protection Agency
Roberto Rodriguez, Nominee for Assistant Secretary of Planning, Evaluation, and Policy Development, Department of Education
Jennifer Sass, Nominee for Member of the Chemical Safety and Hazard Investigation Board
Sam Walsh, Nominee for General Counsel, Department of Energy
Cathy Harris, Nominee for Chair of the Merit Systems Protection Board

Cathy A. Harris is co-manager of the firm of Kator, Parks, Weiser & Harris, PLLC, in Washington, DC. She serves as the Chair of the firm's Sexual Harassment and LGBT Practice sections. Ms. Harris has practiced employment law, including before the Merit Systems Protection Board, for over two decades. She has extensive experience in the litigation and settlement of federal sector employment class actions, and also represents individual employees. She graduated from the George Washington University Law School in Washington, DC with honors in 1997, where she was a member and editor on the George Washington Law Review. She received the Michael D. Cooley award for most successfully maintaining her compassion, vitality and humanity during law school and was elected to give the salutatory address at commencement. Ms. Harris received her

undergraduate degree from Brown University in 1994.

Prior to joining Kator, Parks, Weiser & Harris, PLLC, Ms. Harris was an Assistant District Attorney in the New York County District Attorney's Office. She also served as an Adjunct Professor at the George Washington University Law School from 2001 to 2004. She resides in Silver Spring, Maryland with her wife and daughter.

Geraldine Richmond, Under Secretary for Science, Department of Energy

Geraldine Richmond is the Presidential Chair in Science and Professor of Chemistry at the University of Oregon. Bridging the fields of chemistry and physics, Richmond's research focusses on understanding the molecular characteristics of water surfaces, studies that have relevance to environmental issues such as oil remediation, atmospheric chemistry and alternative energy sources. Her teaching and extensive outreach efforts have focused on science communication and building a strong and inclusive workforce. She has been honored by numerous honors and awards including the National Medal of Science from President Obama (2016), the Presidential Award for Excellence in Science, Mathematics and Engineering Mentoring from President Clinton (1997) and the American Chemical Society's highest honor, the Priestley Medal (2018). Richmond is a member of the National Academy of Sciences, and is a Fellow of the American Academy of Arts and Sciences, the American Chemical Society, the American Physical Society and the Association for Women in Science.

A native of Kansas, Richmond received her B.S. in chemistry from...

EPA Announces Updates to Confidential Status of Chemicals on the TSCA Inventory

Lynn Bergeson and Carla Hutton, Bergeson & Campbell Blogs

http://www.tscablog.com/entry/epa-announces-updates-to-confidential-status-of-chemicals-on-the-tsca-inven

On April 29, 2021, the U.S. Environmental Protection Agency (EPA) announced the release of a list of 390 chemicals that it states are "expected to lose their confidential status and move to the public portion of the Toxic Substances Control Act (TSCA) Inventory, furthering the agency's commitment to data transparency." According to EPA, the specific identities of these chemicals were reported as non-confidential during Chemical Data Reporting (CDR) cycles from the 2012, 2016, and/or 2020 reporting periods. In accordance with the CDR rule and with TSCA Sections 8 and 14, EPA intends to update the TSCA Inventory listings for these chemicals to list the specific chemical identities on the public portion of the Inventory. Stakeholders should check the list of substances and ensure that none of those substances is of critical importance to maintain confidential status. Stakeholders with interest, questions, or concerns about this change in confidential status may contact the listed EPA staff no later than May 14, 2021. EPA expects to include the specific chemical identities of these 390 chemicals in the next routine publication of the public TSCA Inventory, anticipated in late summer 2021.

EPA Announces Plans to Expand Scope of TRI Reporting Requirements

N/A, Bergeson & Campbell Blogs

https://www.lawbc.com/regulatory-developments/entry/epa-announces-plans-to-expand-scope-of-tri-reporting-requirements

The U.S. Environmental Protection Agency (EPA) announced on April 29, 2021, that it will be "taking important steps under the Toxics Release Inventory (TRI) to advance Environmental Justice, improve transparency, and increase access to environmental information." EPA plans to expand the scope of TRI reporting requirements to include additional chemicals and facilities, including facilities that are not currently reporting on ethylene oxide (EtO) releases, and provide new tools to make TRI data more accessible to the public. U.S. facilities in different industry sectors must report annually how much of each listed chemical is released to the environment and/or managed through recycling, energy recovery, and treatment.

TRI Facility Expansion to Include Certain Contract Sterilizers Using EtO

EPA states that it "recognizes and shares the public's concerns about the harmful effects of EtO on human health, including cancer and the environment." EPA is "committing to broadening TRI reporting" on EtO to include certain contract sterilization facilities that use EtO and that are not currently required to report this information. According to EPA, EtO is used to make other industrial chemicals and is also used to sterilize medical devices.

EPA states that many contract sterilization facilities are located near areas with environmental justice concerns. EPA states that "[w]orkers in facilities that use EtO and communities -- including historically underserved communities -- living adjacent to these facilities are at the highest risks from exposure to EtO." According to EPA, making more information available about releases of EtO will assist it in identifying and responding to any human health and environmental threats they cause. EPA "will provide more details in upcoming months on its effort to require these contract sterilization facilities to report to TRI and will keep the public informed as next steps are determined."

Additional TRI Reporting Requirements for Other Chemicals and Sectors

EPA's announcement intends the following changes to expand the TRI program to protect the health and safety of underserved communities, including:

TRI Reporting for Natural Gas Processing Facilities: EPA plans to issue a final rule adding natural gas processing facilities to the list of industry sectors covered under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). EPA published a proposed rule on January 6, 2017, following a petition submitted by the Environmental Integrity Project and other organizations. EPA states that adding natural gas processing facilities to TRI would increase the publicly available information on chemical releases and other waste management activities of TRI-listed chemicals from this sector. According to EPA, "[m]illions of people live within 30 miles of at least one natural gas processing facility." Although EPA issued a proposed rule in January 2017 under the Obama-Biden Administration, the rulemaking has been listed on EPA's list of inactive regulatory actions since spring 2017, and it is not clear when a final rule will be issued. Once EPA does issue a final rule, the report for any calendar year must be submitted on or before July 1 of the following year.

TRI Reporting for Additional Per- and Polyfluoroalkyl Substances (PFAS): EPA will continue to add new PFAS to TRI, in addition to the three PFAS added in reporting year 2021. The provisions included in the 2020 National Defense Authorization Act (NDAA) automatically add certain PFAS to the TRI chemical list when certain conditions are met. EPA anticipates the automatic addition of more PFAS, including perfluorobutane sulfonic acid (PFBS), following EPA's recent publication of a toxicity assessment on the chemical. More

information on the PFBS toxicity assessment is available in our April 9, 2021, blog item.

TRI Reporting for TSCA Work Plan and High-Priority Chemicals: EPA plans to propose adding to TRI the chemicals included...

Research Shows Adverse Impacts of Glyphosate on the Human Gut Microbiome

N/A, Beyond Pesticides Blog

https://beyondpesticides.org/dailynewsblog/2021/04/research-shows-adverse-impacts-of-glyphosate-on-the-human-gut-microbiome/

A bioinformatics tool developed by researchers from the University of Turku in Finland indicates that "54% of species in the core human gut microbiome are sensitive to glyphosate." This tool may help predict which microbes in the human gut could be negatively affected by exposure to the ubiquitous herbicide. Because damage to the gut biome is linked to a variety of diseases, this information could prove critical in recognition of the role(s) glyphosate may play in the development of human diseases. Published in the Journal of Hazardous Materials, the researchers' paper states, "The widespread use of glyphosate may have a strong effect on gut microbiomes as well as on human health." Beyond Pesticides has long reported on the relationship between glyphosate and human health, including potential effects on the human gut microbiome.

Used in multiple herbicide formulations, glyphosate has become widely known as the active ingredient in Bayer/Monsanto's Roundup®, the most-used herbicide worldwide. The pervasiveness of glyphosate-based herbicide (GBH) use in agriculture, and of Roundup in particular, is due largely to their pairing with genetically engineered (GE) seeds for soy, canola, and corn crops. In many regions, these GE seeds — engineered to resist the glyphosate that is then applied to the crop — dominate.

Farmers have been persuaded by industry that their crop plants will be protected from applications of the herbicide, and that competing weeds will be taken down; for a couple of decades, this more-or-less worked. But more recently, and inevitably, as so much of the agricultural landscape has been drenched in GBHs, weeds are rapidly developing resistance to glyphosate. This has not dampened industry's enthusiasm for these products; rather, companies are doubling down on chemical solutions.

Very recently, in covering a Tufts University scientific literature analysis, Beyond Pesticides wrote: "Almost five decades of extensive glyphosate use has put animal, human, and environmental health at risk. . . . The chemical's ubiquity threatens 93% of all U.S. endangered species, with specific alterations [in] microbial gut composition." In June 2020, we wrote: "Gut microbiota plays a crucial role in lifelong digesti[ve], immune, and central nervous system regulation, as well as other bodily functions. . . . With prolonged exposure to various environmental contaminants [such as glyphosate or other pesticides], critical . . . changes may occur in the gut microbes, influencing adverse health outcomes."

Glyphosate's mode of action — the subject of this research — is this: it targets and inactivates an important enzyme in what is called the "shikimate [metabolic] pathway" in plants. That enzyme is EPSPS (5-enolpyruvylshikimate-3-phosphate synthase), which synthesizes three amino acids, phenylalanine, tyrosine, and tryptophan, essential to building proteins. This pathway is not found in animal cells, and so, does not exist as a direct vulnerability to glyphosate in human cells — thus, claims that glyphosate has no health impacts on

humans.

There is ample evidence that this industry claim is false, not least among which are:

the International Agency for Research on Cancer's (IARC's) 2015 finding that glyphosate is a probable human carcinogen
numerous lawsuits against GBH manufacturers for individuals whose exposures led to cancer diagnoses, particularly of non-Hodgkin's Lymphoma, with some great successes to date
research that implicates glyphosate in distorting DNA function and links exposures to several chronic diseases (e.g., diabetes, asthma, Alzheimer's disease, amyotrophic lateral sclerosis (ALS), and Parkinson's disease)
Impacts of glyphosate on the human gut microbiome represent another pesticide assault on human health. Because the biome harbors between 10 and 100 trillion symbiotic microbes, glyphosate ingestion (via residues on consumed food, primarily) may well have effects on some of those bacteria, according to the...

Flurry Of PFAS Actions In The First 100 Days Of The Biden Administration: The Highlights

Cole Schotz and Emily Lamond, JDSupra

https://www.jdsupra.com/legalnews/flurry-of-pfas-actions-in-the-first-100-5983037/

The first 100 days of the Biden Administration saw a flurry of activities at the federal level seeking to address PFAS, a class of thousands of manmade chemicals notoriously known as Forever Chemicals because they don't break down in the environment.

Studies continue to report adverse health effects associated with exposure to PFAS, even at extremely small concentrations. Studies are also increasingly finding high rates of PFAS in our everyday environment including drinking water, consumer and household products, food packaging, and more. However, the United States Environmental Protection Agency (EPA) has not yet established any enforceable drinking water or remediation standards for any PFAS chemical. See the PFAS Practice Tip at the end of the article regarding regulatory actions at the state level.

As the body of evidence showing potential adverse health effects and the high prevalence of PFAS in the environment increases, so do the calls for federal regulation from environmental organizations, the public, and even Congress. Click here and here for background information on PFAS chemicals, their prevalence and health effects.

Acting on PFAS was a steadfast part of President Biden's environmental campaign promises. Here are the highlights on actions taken during the first 100 days:

April 27, 2021. PFAS Memo issued by New EPA Administrator Michael Regan

Develop national primary drinking water standards
Collect new data on 29 types of PFAS chemicals
Solicit data on the presence and treatment of PFAS in wastewater discharges
Establish the EPA Council on PFAS (ECP)
Charged with implementing the 2019 EPA Action Plan, prepared by EPA career staff

Also charged with developing the "PFAS 2021-2025 – Safeguarding America's Waters, Air and Land," a strategy to deliver critical public health protections
Initial recommendations to be made within 100 days of establishment of ECP

April 13, 2021. PFAS Action Act of 2021, bipartisan bill introduced to the US House of Representatives

Drinking water standard for PFOA and PFOS within two years
Designate PFOA and PFOS as a "hazardous substances" within one year and determine if other PFAS should be designated within five years under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), known as Superfund
Require testing of PFAS for toxicity to human health under Toxic Substances Control Act (TSCA)
Designate PFOA and PFOS as "hazardous air pollutants" under the Clean Air Act within six months and determine if other PFAS should be designated within five years
Prohibit unsafe incineration of PFAS waste
Moratorium on introduction of new PFAS into commerce
Establish industrial discharge limits and provide $200M annually for wastewater treatment

April 8, 2021. Updated PFBS Toxicity Assessment released by EPA

Comparable to assessments under EPA's Integrated Risk Information System (IRIS) and Provisional Peer-Reviewed Toxicity Value (PPRTV) Program
Animal studies show effects on the thyroid, reproductive organs and tissues, developing fetus, and kidney following oral exposure
Data are inadequate to evaluate cancer effects
Provides hazard identification, dose-response information, and toxicity values
Developed reference doses (RfDs), the estimated amount of a chemical a person can ingest daily over a lifetime (chronic RfD) or less (subchronic RfD) that is unlikely to lead to adverse health effects
PFBS suggested to be less toxic than PFOA and PFOS based on the RfD
"This assessment is not a regulation; rather, it provides a critical part of the scientific foundation for risk assessment decision making."

March 17, 2021. Advance Notice of Proposed Rulemaking (ANPRM) for Wastewater Discharges published by EPA under the Clean Water Act
Provides information collected by EPA to date under its PFAS Multi-Industry Study for review and comment
Poses questions to PFAS manufacturers and formulators, soliciting information about PFAS wastewater discharges...

Victory! Court Orders Ban on Chlorpyrifos to Protect Children's Health

N/A, Natural Resources Defense Council

https://www.nrdc.org/experts/nrdc/victory-court-orders-ban-chlorpyrifos-protect-childrens-health

In a major victory for public health—especially for children—the Ninth Circuit Court of Appeals ruled today that the U.S. Environmental Protection Agency must ban chlorpyrifos, a toxic pesticide that is commonly sprayed on food crops, including apples, oranges, and berries, unless the agency can identify a level of use that

is safe for kids and infants.

"The court ruled in favor of science, which has clearly shown that chlorpyrifos is too dangerous to be used to grow our food," says Jennifer Sass, a senior scientist at NRDC. Exposure to low levels of chlorpyrifos in early life can lead to increased risk of learning disabilities, including reductions in IQ, developmental delays, and behavioral problems, such as ADHD. The EPA's own analysis found that the amount of chlorpyrifos ingested by young children through sprayed fruits and vegetables could exceed safety levels by 140 times. Farmworkers and their families, who are predominantly Latino, face the most exposure to this harmful chemical.

The decision comes in response to a lawsuit—brought by NRDC and a coalition of labor and health organizations represented by Earthjustice—against the Trump administration's illegal delays and resistance to the ban, which was first proposed under the Obama administration. "The Trump EPA had allowed the continued use of this toxic pesticide, even though they knew it is damaging to human health," says Sass.

Thankfully, states like California, the top user of chlorpyrifos, didn't wait on the EPA to protect the health of our children and the state's farmworkers. Recognizing the threats the pesticide poses to agricultural communities, which already face disproportionate risks from contaminated air and water, California implemented a chlorpyrifos ban that went into full effect in January. Even Corteva (formerly part of Dow Chemical), once the world's largest producer of chlorpyrifos, announced it would cease making the pesticide in 2020.

This important victory comes almost 15 years after NRDC and the Pesticide Action Network first petitioned the EPA to ban the pesticide from our food supply in 2007. Today's court's order will give the EPA 60 days to ban chlorpyrifos use on produce sold within the United States, unless it can identify uses that do not threaten kids' and infants' health. "This ban will ensure that kids can eat fruits and vegetables free of this neurotoxin," says Sass.

Imports of Three Chemical Substances Could Require Advance Notice

N/A, Sandler, Travis, and Rosenberg, P.A.

https://www.strtrade.com/trade-news-resources/str-trade-report/trade-report/may/imports-of-three-chemical-substances-could-require-advance-notice

The Environmental Protection Agency is accepting comments through June 1 on a proposed rule that would require persons who intend to manufacture (including import) or process any of the following chemical substances for an activity designated as a significant new use by this rule to notify the EPA at least 90 days before commencing that activity.

- heptanal, 6-hydroxy-2,6-dimethyl- (used as a fragrance for scented papers, candles, detergents, cleaners, etc.)

- glycine, reaction products with sodium O-iso-Pr carbonodithioate, sodium salts (used as a mining chemical)

- alkanedioic acid, polymer with tri-alkyl-isocyanatocarbomonocycle, dialkylglycols, ester with 2,3-dihydroxypropyl alkyl ester, 2-hydroxyethyl methacrylate-blocked (generic) (used as a formulation component in UV/EB coatings, inks, 3-D printing/stereolithography/additive manufacturing, and adhesive manufacturing)

Under this rule, importing, manufacturing, or processing these substances for a significant new use could not be commenced until the EPA has conducted a review of the advance notice, made an appropriate determination, and taken such risk management actions as are required by that determination.

Importers would have to certify that shipments of these substances comply with all applicable rules and orders under the Toxic Substances Control Act, including any SNUR requirements. In addition, any persons who export or intend to export any of these substances on or after June 1would be subject to the export notification provisions of 15 USC 2611(b) and have to comply with the export notification requirements in 40 CFR part 707, subpart D.

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